

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:97-cr-104

v.

HON. JANET T. NEFF

ERVIN JOSEPH WRIGHT, SR.,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Ervin Joseph Wright, Sr. has filed a motion for modification or reduction of sentence (Dkt 200) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Sentence Modification Report (Dkt 204) finding defendant ineligible. Defendant has filed a Response (Dkt 206) which agrees with the conclusion of the probation department.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The defendant appears to be ineligible for a reduction of sentence as the quantity used to drive the guideline exceeds the drug quantity table. Defendant has filed a response (Dkt 206) to the

Sentence Modification Report, and preserves this issue for future consideration should the law change. A reduction of sentence is inconsistent with the policy statements of the U.S. Sentencing Commission.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 200) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: July 8, 2015

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge